

REMARKS / DISCUSSION OF ISSUES

Claims 1-8, 11, and 13-21 are pending in the application; claim 12 is canceled herein and claims 13-21 are newly added.

The claims are amended to conform to the USPTO's new interpretation of the requirements of 35 U.S.C. 101. The claims are not narrowed in intended scope and no new matter is added.

The Office action rejects claims 1-8 and 11 under 35 U.S.C. 101. The applicants respectfully traverse this rejection.

Claims 1-5

The Office action asserts that method claims 1-5 do not define a process that transforms underlying subject matter to a different state or thing. The applicants respectfully disagree with this assertion. The Office action acknowledges that "a phase jitter is calculated and added [to a sinusoidal component of a sound recording]". The applicants respectfully maintain that the adding of the phase jitter to the sinusoidal component of a sound recording transforms the sound recording to a different state. Accordingly, the applicants respectfully maintain that claims 1-5 are directed to statutory subject matter under 35 U.S.C. 101.

In the alternative, the Office action asserts that method claims 1-5 must be tied to another statutory category. The applicants respectfully disagree with this assertion, but in the interest of advancing prosecution, each of the method claims are herein amended to tie the method to a device. Accordingly, the applicants respectfully maintain that claims 1-5 are directed to statutory subject matter under 35 U.S.C. 101.

Claims 6-8 and 11

The Office action asserts that claims 6-8 and 11 are not directed to a machine. The applicants respectfully disagree with this assertion, but in the interest of advancing prosecution, each of the claims is amended to specifically recite a "device". The applicants respectfully maintain that these devices correspond to a machine. Accordingly, the applicants respectfully maintain that claims 6-8 and 11 are directed to statutory subject matter under 35 U.S.C. 101.

Because claims 1-8 and 11 are directed to statutory subject matter, the applicants respectfully maintain that these claims are patentable under 35 U.S.C. 101, and respectfully request the withdrawal of this rejection.

In the interest of advancing prosecution, the following comments are offered with regard to newly added claims 13-21.

Claims 13-17

Each of claims 13-17 recites a device. Accordingly, claims 13-17 address patentable subject matter (a machine) and are patentable under 35 U.S.C. 101.

Claims 18-21

Each of claims 18-21 are directed to a computer medium encoded with a computer program that, when executed by a processor, causes the processor to perform particular functions.

MPEP 2106.01 specifically states:

"a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory."

Accordingly, because claims 18-21 are directed to a computer-readable medium encoded with a computer program that permits a computer's functionality to be realized, claims 18-21 are patentable under 35 U.S.C. 101.

Further, in view of recent rejections of computer-readable medium because a signal is a computer-readable medium, the applicants offer the following comment to advance prosecution in this case.

MPEP 2106.01 acknowledges the fact that a signal is a computer-readable medium, but does not summarily conclude that this fact renders all claims to a computer-readable medium non-statutory under 35 U.S.C. 101. To reject a claim under 35 U.S.C. 101 because a computer-readable medium may be a signal is inconsistent with the explicit teachings of MPEP 2106.01.

In view of the foregoing, the applicants respectfully request that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

/Robert M. McDermott/
Robert M. McDermott, Esq.
Reg. 41,508
804-493-0707

Please direct all correspondence to:

Corporate Counsel
U.S. PHILIPS CORPORATION
P.O. Box 3001
Briarcliff Manor, NY 10510-8001